

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

REGINALD EDWARD SPEARMAN,

Plaintiff,

v.

DEPARTMENT OF STATE HOSPITALS,
et al.,

Defendants.

No. 2:21-cv-01213-TLN-KJN

ORDER

This matter is before the Court on Plaintiff Reginald Edward Spearman's ("Plaintiff")
Motions to Reopen the Case. (ECF Nos. 22, 23.) No opposition has been filed.

On June 8, 2022, the magistrate judge issued findings and recommendations,
recommending that this action be dismissed without prejudice pursuant to Federal Rule of Civil
Procedure ("Rule") 41(b) for failure to prosecute. (ECF No. 19.) The magistrate judge noted that
although Plaintiff's copy of the order was returned, Plaintiff was properly served pursuant to
Local Rule 182(f) as "it is [P]laintiff's responsibility to keep the [C]ourt apprised of his current
address at all times." (*Id.*) This Court adopted the findings and recommendations in full and
dismissed the action without prejudice on July 25, 2022. (ECF No. 20.)

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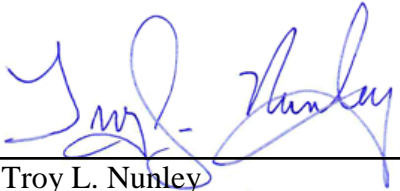
1 Approximately six months later, on January 23, 2023, Plaintiff brought the instant motion
2 to reopen the case, arguing that his change of address letter must not have gotten mailed out
3 during his transfer and shortly before his release. (ECF No. 22.) Plaintiff listed his address as
4 2512 O Street Unit #10, Sacramento, California, 95816. (*Id.*) Plaintiff filed a second motion to
5 reopen the case two months later, on March 30, 2023. (ECF No. 23.) He now states his address
6 is at the Sacramento County Jail at 651 I Street, Sacramento, California, 95814. (*Id.*)

7 To the extent Plaintiff is asking the Court to reconsider its prior decision pursuant to Rules
8 59 or 60, Plaintiff fails to persuade the Court that such relief is warranted. The magistrate judge
9 correctly noted that it was Plaintiff's responsibility to keep the Court apprised of his current
10 address, and Plaintiff failed to do so until over six months after this case was dismissed.

11 For these reasons, the Court hereby DENIES Plaintiffs' Motions to Reopen the Case.
12 (ECF Nos. 22, 23.) If Plaintiff wishes to proceed, he should initiate a new action with a new
13 application to proceed in forma pauperis.¹

14 IT IS SO ORDERED.

15 DATE: May 10, 2023

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18 Troy L. Nunley
19 United States District Judge
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23 ¹ While no statute of limitations is contained within the express language of 42 U.S.C. §
24 1983, the United States Supreme Court has directed that 42 U.S.C. § 1988 "requires courts to
25 borrow and apply to all § 1983 claims the one most analogous state statute of limitations."
26 *Owens v. Okure*, 488 U.S. 235, 240 (1989). As civil rights actions are best characterized as
27 actions for injuries to personal rights, federal courts borrow the state statute of limitations that
28 applies to personal injury actions in the forum state for both acts. *McDougal v. Cnty. of Imperial*,
942 F.2d 668, 672–74 (9th Cir. 1991). It appears Plaintiff's action is subject to California's two-
year statute of limitations for personal injury actions. *Wallace v. Kato*, 549 U.S. 384, 387 (2007);
Cal. Code. Civ. Proc. § 335.1.